

RESPONSE UNDER 37 C.F.R. § 1.116
U.S. Application No. 09/384,422
Attorney Docket No. Q55464

REMARKS

General remarks.

Claims 3-12 are all the claims pending in the application. None of the claims is amended. The Examiner's kind and thoughtful reconsideration of the claim rejections is respectfully requested.

The drawing objection.

The Examiner objected to the drawings as failing to show the claims first communication network and the claimed second communication network. The first communication network is shown in Fig. 1. It is shown as the line between DTE and DRE. The second communication network is also shown in Fig. 1. It is shown as the cloud INNW. The specification says that there is a network between the DTE's and the DRE at page 3, lines 23-25. The specification says that INNW is a network at page 3, line 14. Because the two communication networks are shown in Fig. 1, Applicant respectfully requests the Examiner to withdraw this drawing objection.

Rejection under 35 U.S.C. § 112, ¶ 1.

The Examiner rejected claims 3-12 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. According to the Examiner, the independent claims 3, 7, and 11 (and some of the dependent claims) contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed had possession of the claimed invention. In particular, the Examiner asserted that the subject matter not disclosed by the specification is the claimed first and second communication networks.

Applicant respectfully requests the Examiner to carefully reconsider this position, and to withdraw the rejection, in view of the following points. The specification mentions two networks. One network is a communications network such as the internet (originally-filed

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specification, page 3, line 14; also Fig. 1, "INNW"). There can be no question that the internet is a communication network. In the claims, this is the "second communication network."

Another network in the specification is the network between the "data receiving network element DRE" and the "data transmitting element DTE". The DRE is mentioned in the originally-filed specification at page 3, line 18, and is shown in Fig. 1 ("DRE"). The DTE is mentioned in the originally-filed specification at page 3, line 24, and is shown in Fig. 1 ("DTE").

The DTE is not connected to the INNW. It is connected to another network that is not the INNW. That is to say, there is a network between the DTE and the DRE. A plurality of DTEs are also connected to the network, but "it is chosen to only describe one personal computer DTE connected to the network" for the sake of simplicity of illustration and description (originally-filed specification, page 3, lines 23-25).

The network between the DTEs and the DRE is, unquestionably, a communication network. In the claims, this is the "first communication network."

Since the originally-filed specification fully supports the requirements for a first communication network (i.e., the network between the DTEs and the DRE in the embodiment in Fig. 1) and for a second communication network (i.e., the internet INNW in the embodiment in Fig. 1), it is clear that the written description requirement is met. One of skill in this field understands the internet, and a network of computers, and IPCP. The specification is written to the level of the artisan of ordinary skill, and need not explain everything to the level of the average person. Because the specification clearly describes the two networks, Applicant respectfully submits that the inventor clearly had possession of the invention at the time of the filing of the application.

For all of the foregoing reasons, Applicant respectfully submits that the rejected claims are enabled by the originally-filed specification, and that the originally-filed specification meets the written description requirement. Applicant therefore requests the Examiner to withdraw this rejection under 35 U.S.C. § 112, ¶1.

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Rejections over Hisanaga.

The Examiner rejected claims 3, 5-7, and 9-12 under 35 U.S.C. § 102(a) as being unpatentable over Hisanaga. The Examiner rejected claims 4 and 8 under 35 U.S.C. § 103(a) as being unpatentable over Hisanaga.

In the response filed on March 4, 2003, Applicant pointed out that the requirements relating to the first and second communication networks are unmet in Hisanaga. The Examiner's final rejection notes Applicant's arguments, but indicated that the Examiner thought the requirements relating to first and second communication networks to constitute impermissible new matter. Because the requirements were thought to be new matter, the Examiner did not give the requirements any patentable weight.

Above, Applicant has shown that the requirements relating to the first and second communication networks are well supported in the originally-filed specification, and do not constitute impermissible new matter. Applicant urges the Examiner to reconsider the Hisanaga-based rejections in this light.

The requirements relating to the first and second communication networks are unmet in Hisanaga, and Hisanaga provides no teaching or suggestion that would have enabled the artisan of ordinary skill to have achieved these requirements. Applicant renews the carefully-prepared arguments set forth in the response filed on March 4, 2003. The Hisanaga reference cannot reasonably be said to anticipate or render obvious any of the subject matter of the independent claims. Applicant therefore respectfully requests the Examiner to withdraw the §102 and §103 rejections over Hisanaga.

Applicant notes with interest the Examiner's position as to Hisanaga providing a valid prior art teaching of the requirements relating to service levels. Applicant does not agree with the Examiner because in the claims the service level being mentioned in messages sent within the first network (i.e., between the DTE's and the DRE) have to relate to service levels for communicating data over the second network (i.e., over the INNW), and any service level related messages over the network in Hisanaga relate to communications only over that same network.

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For this additional reason, Applicant respectfully requests the Examiner to withdraw the prior art rejections of claims 3-12, all of which include the requirements relating to the first communication network and the second communication network.

Conclusion and request for telephone interview.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly invited to contact the undersigned attorney at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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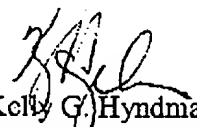
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SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293 7860

WASHINGTON OFFICE

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PATENT TRADEMARK OFFICE


Kelly G. Hyndman
Registration No. 39,234

Technology Center 2600

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